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HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.102 of 2006

Petitioner — Mahavir Prasad Agrawal, aged about 46 years, s/o Shri Jagat Ram Agrawal, r/o Patthalgaon, Tah. Patthalgaon, Distt. Jashpurnagar (C.G)

Versus

Respondents

1. State of Chhattisgarh, through- It's Secretary, Department of Forest, Dau Kalyan Singh Bhawan, Raipur (C.G.)
2. Conservator of Forest (Appellate Authority), Forest Circle- Bilaspur Division (Vrit Bilaspur) Distt.- Bilaspur (C.G.)
3. The Sub Divisional Officer (Forest) and Competent Authorised Officer, Forest Division- Dharamjaigarh, Distt.-Raigarh (C.G.)
4. Forest Range Officer, Range- Dharamjaigarh, Distt.-Raigarh (C.G.)

PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE

Appearance:

Shri Rakesh Pandey, Counsel for the applicant.

Shri G.K. beriwal, counsel for the State/ respondents.

ORAL ORDER
(02.05.2007)

Sunil Kumar Sinha, J.

Heard.

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Cr.M.P.No.102/2006

This petition u/s 482 Cr.P.C. has been filed by the applicant being aggrieved with the order dated 10-4-2006 passed by respondent no.2, Conservator of Forest (Appellate Authority), by which the said authority while allowing the appeal of the applicant for releasing the seized vehicle (Truck) on *Suprudnama* directed that the said vehicle of the applicant shall be given on *Suprudnama* to him after producing a bank guarantee equivalent to price of the vehicle (Truck).

It appears that the Truck of the applicant bearing Regn.No. C.G.12-C/0285 was seized by the Forest Department in connection with Forest Crime No.774/19 dated 17-5-2005 and a proceeding of confiscation is pending before the competent authority. During the pendency of confiscation proceeding, the applicant moved an application for releasing the vehicle on Supurdnama to the competent authority, on which, the order dated 10.3.2005 was passed by him and the prayer was negatived with a direction that firstly the applicant should record his statement and should produce the documents of his vehicle, thereafter his application for *Supurdnama* will be considered. Against the said order passed by the competent authority the aforesaid appeal was filed before respondent no.2, in which the respondent no.2 passed the impugned order dated 10.4.2006 which is the subject matter of this petition.

Learned counsel for the applicant argues that the condition regarding provision of Bank Guarantee is not only vague but the same is onerous. He prays for quashment of the aforesaid condition imposed by the appellate authority in its order dated 10.4.2006 and also for issuance of reasonable direction which should be followed by the respondent authorities in the matter of releasing the vehicle on *Supurdnama* till disposal of the confiscation proceeding pending before them.

In case of a vehicle or any other property, liable to be confiscated, if the concerned authority or the Court comes to the conclusion that it should be given on *Supurdnama* to the claimant, then demanding security or guarantee is only for the purpose that the vehicle or the property in question is produced in time by the temporary holder of the property as per the directions of the Court or the authority. That is to say that he is required to be imposed with such conditions, which may bind him to comply with the terms and conditions of the *Supurdnama,* on which, the Court or the authority has decided to deliver the vehicle or the property on interim custody to him. Needless to say that such terms and conditions should not be so harsh or onerous that the person concerned, who is claiming temporary possession of the vehicle/property in question, may not be able to comply with such conditions as are imposed by the authority or the Court.

In view of the above, in the opinion of this Court, demanding bank guarantee equivalent to the price of the seized vehicle (truck) from the owner of a second hand vehicle appears to be an onerous condition.

The ends of justice would be served, if instead of bank guarantee, the applicant is directed to furnish a solvent surety to the tune of Rs.5,50,000/-, which appears to be the price of the vehicle,to the satisfaction of the authority concerned. The condition of furnishing bank guarantee is hereby quashed. It is directed that the vehicle shall be released on *Supurdnama* to the applicant on the following conditions:

1. The applicant shall execute a *Supurdnama* to the tune of Rs.5,50,000/- to the satisfaction of the concerned authority.
2. Before delivery of the vehicle, an inventory of the accessories would be recorded by the concerned authority and a photograph of the vehicle will also be taken.

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3. The applicant shall not alienate, or in any manner transfer or handover to anybody or create a third party interest on the vehicle till the final disposal of the aforesaid case pending before the concerned authority and he shall produce the vehicle as and when directed by the said authority.

4. The solvent surety to the tune of Rs.5,50,000/- to the satisfaction of the concerned authority shall also be furnished by the applicant ensuring compliance of the aforesaid terms of *Supurdnama.*

This petition stands allowed with the terms indicated above and the order dated 10.4.2006 stands modified accordingly.

Sd/-
SUNIL KUMAR SINHA
Judge

Rao